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EXAMINER
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SWEARINGEN, JEFFREY R

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JOEY L. ERICKSON, DANIEL P. STARKOVICH,  
SCOTT L. RAPPA, and ROBERT J. GAMBREL

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Appeal 2009-011063  
Application 09/594,408  
Technology Center 2400

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Before, ALLEN R. MACDONALD, ROBERT E. NAPPI, and  
DAVID M. KOHUT, *Administrative Patent Judges*.

KOHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1-5 and 16-20.<sup>1</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part the Examiner's rejection of these claims.

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<sup>1</sup> Claims 6-15 were previously cancelled.

## INVENTION

The invention is directed to system and apparatus for processing service requests wherein the service requests have a number of formats. The service requests are routed to an appropriate adapter by a server where they are converted into a standardized format and sent to the generic gateway and routed to the end service provider where they are processed. *See Spec. 7-8.*

Claim 1 is representative of the invention and is reproduced below:

1. A data processing system comprising:
  - a. a first client work station for entering a first transaction request, wherein said first transaction request has a first one of a plurality of protocols;
  - b. an enterprise server for responding to said first transaction request using an enterprise protocol which is not one of said plurality of protocols;
  - c. a second client work station for entering a second transaction request wherein said second transaction request has a second one of said plurality of protocols which is different from said first one of said plurality of protocols responsively coupled to said enterprise server via said digital communication network; and
  - d. a generic gateway interposed between said first user terminal and said enterprise server and between said second user terminal and said enterprise server which responsively couples said first client work station and said second client work station to said enterprise server by converting said first one and said second one of said plurality of protocols to said enterprise protocol.

## REFERENCES

Gibson	US 5,758,351	May 26, 1998
Holmes	US 5,790,809	Aug. 4, 1998

### REJECTIONS AT ISSUE

Claims 1-5 and 16-20 are rejected under 35 U.S.C. § 101 as being directed toward non-statutory subject matter. Ans. 3.

Claims 1-3 and 16-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Holmes. Ans. 3-6.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Holmes. Ans. 6.

Claims 5 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Holmes in view of Gibson. Ans. 6-7.

### ISSUES

#### *35 U.S.C. § 101 rejections*

Appellants argue on page 17 of the Appeal Brief that the Examiner's rejection of claims 1-5 and 16-20 under 35 U.S.C. § 101 is in error. These arguments present the following issue: Did the Examiner err in finding that claims 1-5 and 16-20 contain non-statutory subject matter?

#### *Prior Art Rejections*

Appellants argue on pages 18-26 of the Appeal Brief that the Examiner's rejection of claims 1-5 and 16-20 is in error. These arguments present the following issues:

- a) Did the Examiner err in finding that Holmes discloses a server that responds to transaction requests using a protocol that is different than the protocol used in the transaction requests, as recited in claim 1?

- b) Did the Examiner err in finding that Holmes discloses a plurality of adapters, as recited in claim 2?<sup>2</sup>
- c) Did the Examiner comply with MPEP § 2181 in regards to claim 16?
- d) Did the Examiner err in finding that Holmes discloses connectors, as required by claim 17?<sup>3</sup>

## ANALYSIS

### *35 U.S.C. § 101 rejections*

Independent claim 1 is a data processing system that comprises a first client work station, an enterprise server, a second client work station, and a generic gateway. Claims 2-5 are dependent upon claim 1. Independent claim 16 is similar in scope to claim 1, but uses “means-plus-function” language to describe an apparatus that comprises a first generating means, a second generating means, a transferring means, an adapting means, and a processing means. Claims 17-20 are dependent upon claim 16. The Examiner finds that the work stations, the gateway, the generating means, the transferring means, the adapting means, and the processing means are not necessarily hardware embodiments. Ans. 7. In particular, the Examiner finds that the Specification discloses a “web based work station,” which the Examiner interprets to be a software embodiment. Ans. 7. Additionally, the

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<sup>2</sup> Appellants make additional arguments with respect to claims 3-5. App. Br. 21 and 23-25. However, we do not reach these additional arguments as this issue is dispositive of claims 2-5.

<sup>3</sup> Appellants make additional arguments with respect to claims 18-20. App. Br. 22-26. However, we do not reach these additional arguments as this issue is dispositive of claims 17-20.

Examiner finds that a “web server” is also a software embodiment since the clients are communicating with a “server application.” We disagree.

Appellants have specifically disclosed structure for each of the limitations in the independent and dependent claims. App. Br. 7-15 (citing Appellants’ Specification). Also, in accordance with 37 C.F.R. § 41.37(c)(1)(v), Appellants have identified the structure, material, or acts corresponding to each claimed function by referencing the specification page and line number and by referencing the drawings using reference characters. App. Br. 9-10. Particularly, Appellants’ Specification indicates that each of the workstations is a personal computer and the server application is located in a server. *See* Spec. 14:9-14 and Fig. 1. Therefore, we find that each of the claims contain statutory subject matter. As a result, we cannot sustain the Examiner’s 35 U.S.C. § 101 rejection of claims 1-5 and 16-20.

#### *Prior Art Rejections*

Claim 1 recites “an enterprise server for responding to said first transaction request using an enterprise protocol which is not one of said plurality of protocols.” The Examiner has interpreted this limitation to require a system to convert a transaction request protocol to a transmission protocol and then to a delivery protocol, wherein each of the protocols are different. Ans. 4. We find this interpretation to be reasonable. The Examiner finds that Holmes discloses a system wherein client applications transmit messages to a registry where the messages are converted to a proprietary protocol for transmission and then converted to an appropriate protocol recognizable by a server application. Ans. 4. Appellants cite to Holmes’ Abstract to support their argument that the Holmes’ client and server formats must be compatible, and therefore, not different protocols.

App. Br. 19-20. We disagree because elsewhere in Holmes, Holmes discloses that the clients and servers need not have the same protocol; changes need not be programmed into each application since clients and servers can be ported from one protocol or platform to another. *See* col. 2, ll. 33-42. Thus, we agree with the Examiner and sustain the Examiner's rejection of claim 1.

Claim 2 recites "a plurality of adapters interposed between said generic gateway and said first client work station and said second client work station." Claims 3-5 are dependent upon claim 2. Appellants argue that Holmes does not disclose adapters as required by the claim. App. Br. 20. The Examiner finds that a port uses an adapter to send transmissions on a network (Ans. 4) and, therefore, adapters are inherently disclosed in Holmes. However, the Examiner has not cited any evidence to support this finding. Additionally, Gibson does not make up for the deficiencies of Holmes. Thus, we cannot sustain the Examiner's rejection of claims 2-5.

Regarding claim 16, Appellants make the same arguments with respect to claim 16 as with claim 1. App. Br. 21. For the reasons stated *supra*, we agree with the Examiner. Additionally, Appellants argue that the Examiner has not complied with MPEP § 2181 because the Examiner has not expressly acknowledged the means-plus-function limitations. App. Br. 21. While the Examiner did not explicitly state that Appellants' were invoking means-plus-function language, the Examiner treated the claim limitations as such. Ans. 10. The Examiner finds, and Appellants do not dispute, that the limitations in claim 1 perform the identical function of the limitations in claim 16. Ans. 10. For instance, the Examiner equated the first client work station (10) to the first generating means; the second client

work station (12) to the second generating means; the digital communication network (20) to the transferring means; the enterprise server (52) to the transferring means; and the generic gateway (70) to the adapting means.

Ans. 10. Thus, we sustain the Examiner's rejection of claim 16.

Claim 17 requires a plurality of connectors. Claims 18-20 are dependent upon claim 17. The Examiner finds that claim 17 contains the same limitations as claim 2 and rejects claim 17 for the same reasons as claim 2. Ans. 5. Appellants argue that claim 17 recites the limitation of a plurality of connectors, which is not present in claim 2. App. Br. 22. The Examiner has not shown and we do not find that Holmes discloses the claimed connectors. Additionally, Gibson does not make up for the deficiencies of Holmes. Thus, we cannot sustain the Examiner's rejection of claims 17-20.

### CONCLUSION

The Examiner erred in finding that claims 1-5 and 16-20 contain non-statutory subject matter.

The Examiner did not err in finding that Holmes discloses a server that responds to transaction requests using a protocol that is different than the protocol used in the transaction requests.

The Examiner erred in finding that Holmes discloses a plurality of adapters.

The Examiner erred in finding that Holmes discloses connectors.

### SUMMARY

The Examiner's decision to reject claims 1-5 and 16-20 under 35 U.S.C. § 101 is reversed.



The Examiner's decision to reject claims 1 and 16 under 35 U.S.C. § 102(b) is affirmed.

The Examiner's decision to reject claims 2-3 and 17-19 under 35 U.S.C. § 102(b) is reversed.

The Examiner's decision to reject claims 4-5 and 20 under 35 U.S.C. § 103(a) is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

AFFIRMED-IN-PART

msc